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Introduced by M. of A. KELLES, GLICK, PAULIN, COOK, ROSENTHAL, HEVESI, BRONSON, TAYLOR, SIMON, SAYEGH, CRUZ, REYES, GALLAGHER, SEAWRIGHT, BURDICK, JACKSON, LAVINE, GONZALEZ-ROJAS, BICHOTTE HERMELYN, OTIS, ZINERMAN, MAMDANI, SHIMSKY, LEVENBERG, GIBBS -- Multi-Sponsored by -- M. of A. R. CARROLL, DINOWITZ, EPSTEIN, HUNTER, LUPARDO, PEOPLES-STOKES -- read once and referred to the Committee on Higher Education

AN ACT to amend the public health law, the education law and the labor law, in relation to prohibiting participation in torture of incarcerated individuals by health professionals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "end health professionals' complicity in the torture of detained or incarcerated individuals act of 2025".

§ 2. Legislative policy and intent. This legislation is intended to ensure health professionals fulfill their professional and human rights obligations to prevent and report torture of people who are detained or incarcerated. The purpose is to promote the health and safety of all persons who are held in, work at, or volunteer in a carceral or detention facility in New York by requiring measures that will assist in eliminating torture of detained or incarcerated persons. These measures include: creating a safe environment for detained and incarcerated persons to report concerns about torture to health professionals; requiring that non-incarcerated persons working or volunteering in these facilities report all allegations of torture to an appropriate official in these facilities; mandating documentation and investigation of all reports of torture by the agency responsible for managing these facilities; and designating an agency independent from these facilities to monitor implementation of these requirements. To facilitate the reporting of alleged torture, this legislation requires that such reporting

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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preserve the confidentiality of those involved and prohibits any retaliation against persons making such reports. The legislation is based on, and is intended to give effect to: accepted standards, including federal, state, and local law; as well as professional and international standards relating to torture of detained or incarcerated individuals, and related matters. It is guided by basic principles: (1) health professionals shall be dedicated to providing the highest standard of care, with compassion and respect for human dignity and rights; and (2) torture of detained or incarcerated individuals is wrong and inconsistent with the practice of the health professions and all persons responsible for the care and custody of detained or incarcerated individuals. The legislature further finds that the conduct prohibited by this act violates the ethical and legal obligations of licensed health professionals and all others working or volunteering in a detention facility.

§ 3. The public health law is amended by adding a new section 25 to read as follows:

§ 25. Participation in torture of detained or incarcerated individuals by health professionals. 1. Definitions. As used in this section, unless the context clearly requires otherwise, the following terms have the following meanings:

(a) "Health professional" means any person licensed, registered, certified, or exempt to practice under (i) any of the following articles of the education law: one hundred thirty-one (medicine), one hundred thirty-one-B (physician assistants), one hundred thirty-one-C (specialist assistants), one hundred thirty-two (chiropractic), one hundred thirty-three (dentistry, dental hygiene, and registered dental assisting), one hundred thirty-six (physical therapy and physical therapist assistants), one hundred thirty-seven (pharmacy), one hundred thirty-nine (nursing), one hundred forty (professional midwifery practice act), one hundred forty-one (podiatry), one hundred forty-three (optometry), one hundred forty-four (ophthalmic dispensing), one hundred fifty-three (psychology), one hundred fifty-four (social work), one hundred fifty-five (massage therapy), one hundred fifty-six (occupational therapy), one hundred fifty-seven (dietetics and nutrition), one hundred fifty-nine (speech-language pathologists and audiologists), one hundred sixty (acupuncture), one hundred sixty-three (mental health practitioners), one hundred sixty-four (respiratory therapists and respiratory therapy technicians), one hundred sixty-five (clinical laboratory technology practice act), or one hundred sixty-six (medical physics practice), or (ii) article thirty-five of this chapter (practice of radiologic technology).

(b) "Torture" means any intentional act or intentional omission by which severe pain or suffering, whether physical or mental, is inflicted on a person for no lawful purpose or for such purposes as obtaining from the person or from a third person information or a confession, punishing or disciplining or retaliating against the person for an act the person or a third person has carried out (including the holding of a belief or membership in any group) or is suspected of having or perceived to have carried out, or intimidating or coercing the person or a third person, or for any reason based on discrimination of any kind.

(i) "Torture" includes any cruel, inhuman or degrading treatment or punishment as those terms and principles are defined and articulated in relevant international treaties and standards including but not limited to the Convention Against Torture, and Other Cruel, Inhumane, or Degrading Treatment or Punishment, the Istanbul Protocol, the International Covenant on Civil and Political Rights, the United Nations Standard

Minimum Rules for Treatment of Prisoners, the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the Basic Principles for the Treatment of Prisoners, and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice and their corresponding interpreting bodies.

(ii) "Torture" also includes any cruel and unusual punishment as defined in the United States Constitution or the New York state constitution.

(c) "Covered facility" means any facility in New York where a health professional licensed by the state works, including but not limited to a correctional facility, a local correctional facility, a juvenile offender facility, a county detention facility for juvenile delinquents and persons in need of supervision, a police detention facility, and a facility in which a person is detained due to their immigration status.

(d) "Incarcerated individual" means any person who is subject to detention or incarceration.

(e) To "adversely affect" a person's physical or mental health or condition does not include causing adverse effects that may arise from treatment or care when that treatment or care is performed in accordance with generally applicable legal, health and professional standards and for the purposes of evaluating, treating, protecting or improving the person's health.

(f) "Interrogation" means the questioning of an individual who has been incarcerated, detained, or whose freedom of movement has been otherwise restricted by a law enforcing entity, organization, or official.

(i) "Interrogation" includes the questioning of such individual to aid or accomplish any illegal or not legally sanctioned activity or purpose.

(ii) "Interrogation" does not include questioning by health professionals to assess the physical or mental condition of an individual if undertaken in accordance with generally applicable legal, health and professional standards and for the purposes of evaluating, treating, protecting or improving the person's health.

(g) "Conflict of interest" means a situation in which a health professional's personal, professional, financial, or other interests or relationships could influence such professional's objectivity, competence, or effectiveness in performing their professional responsibilities as set forth in any federal or state law or any code, rules, or regulations, which govern the health professional's profession and the requirements set forth by this section.

(i) "Conflict of interest" includes, but is not limited to, having present during a medical encounter close relatives of the health professional or a person with whom the health professional lives in a close relationship.

(ii) "Conflict of interest" also includes when a patient reports that, during a medical encounter, a person may have been involved in improper treatment of the patient or another individual and the health professional realizes that such identified person is a close relative of the health professional or a person with whom the professional lives in a close relationship.

2. Knowledge. A health professional who receives information that indicates that an incarcerated individual as defined by this section is being, may in the future be, or has been subjected to torture, shall use due diligence in fulfilling all of their responsibilities under this section.

3. General obligations of health professionals. (a) Every health professional shall provide every incarcerated individual under their professional care with care or treatment consistent with generally applicable legal, health and professional standards to the extent that they are reasonably able to do so under the circumstances, including protecting the confidentiality of patient information.

(b) State and local correctional facilities shall provide visual and auditory privacy to ensure patient-provider confidentiality, as required by applicable state and federal laws, during all health encounters involving persons held under their jurisdiction. Non-health personnel shall not be present in the areas in which the encounter is occurring unless their presence is permitted pursuant to this section, and shall remain sufficiently distant to maintain patient-provider confidentiality so that conversations between an individual who has been incarcerated, detained, or whose freedom of movement has been restricted and health professionals cannot be overheard and patients' visual privacy during such encounters can be maintained, except when non-health professionals' presence is requested by a health professional pursuant to this paragraph. The commissioner shall promulgate rules and regulations to maximize such confidentiality. Such rules and regulations shall: (i) provide for secure and, when reasonable, uniform filing of health records and reporting pursuant to this section by the correctional and health-related agencies involved in providing care; (ii) ensure that the design of the encounter space facilitates, where reasonable, confidentiality and safety through the use of devices and physical structures including but not limited to, panic buttons, windows to allow visual monitoring, privacy booths, and electronic silent camera monitoring of the encounter by security staff; and (iii) allow for having present additional medical providers or non-security observers during the encounter. Such rules and regulations shall be in accordance with all federal or state laws relating to medical confidentiality. Non-health personnel may be permitted to be in the encounter space if needed for interpreter services or only in exceptional circumstances if the health professionals engaged in the encounter determine that non-health staff is needed to be present in order to ensure the safety of the patient or health staff. Such determination shall be based upon specific behavior by the patient at the time of the encounter or immediately preceding the encounter that creates a substantial risk of imminent violence or uncontrollable disruption occurring during the medical encounter. The health professional shall document in writing such determination and the reasons for determining that there was such substantial risk. A secure electronic log shall be maintained by the agency and covered facility of all encounters when non-health personnel are present during any health encounter.

(c) In all clinical assessments relating to an incarcerated individual, whether for therapeutic or evaluative purposes, health professionals shall exercise their professional judgment independent of the interests of a government or other third party. During such medical encounters, the health professional shall not proceed with the encounter if proceeding would involve a conflict of interest as defined in paragraph (g) of subdivision one of this section and shall seek arrangements for the patient to be promptly seen by another provider.

4. Certain conduct of health professionals prohibited. (a) No health professional shall knowingly, recklessly, or negligently apply their knowledge or skills in relation to, engage in any professional relationship with, or perform professional services in relation to any incarcerated individual unless the purpose is solely to evaluate, treat,

protect, or improve the physical or mental health or condition of the incarcerated individual (except as permitted by paragraph (b) or (c) of subdivision five of this section).

(b) No health professional shall knowingly, recklessly, or negligently engage, directly or indirectly, in any act which constitutes torture of an incarcerated individual, which may include participation in, complicity in, incitement to, assistance in, planning or design of, cover up of, failure to document, or attempt or conspiracy to commit such torture. Prohibited forms of engagement include but are not limited to:

(i) knowingly, recklessly, or negligently providing means, knowledge or skills, including clinical findings or treatment, with the intent to facilitate the practice of torture;

(ii) knowingly, recklessly, or negligently permitting their knowledge, skills or clinical findings or treatment to be used in the process of or to facilitate torture;

(iii) knowingly, recklessly, or negligently examining, evaluating, or treating an incarcerated individual to certify whether torture can begin, be continued, or be resumed;

(iv) being present while torture is being administered;

(v) omitting or suppressing indications of torture from records or reports; and

(vi) altering health records or reports to hide, misrepresent or destroy evidence of torture.

(c) No health professional shall knowingly, recklessly, or negligently apply their knowledge or skills or perform any professional service in order to assist in the punishment, detention, incarceration, intimidation, or coercion of an incarcerated individual when such assistance is provided in a manner that may adversely affect the physical or mental health or condition of the incarcerated individual (except as permitted by paragraph (a) or (b) of subdivision five of this section).

(d) No health professional shall participate in the interrogation of an incarcerated individual, including being present in the interrogation room, asking or suggesting questions, advising on the use of specific interrogation techniques, monitoring the interrogation, or medically or psychologically evaluating a person for the purpose of identifying potential interrogation methods or strategies. However, this paragraph shall not bar a health professional from being present for the interrogation of a minor under paragraph (a) of subdivision five of this section or engaging in conduct under paragraph (d) of subdivision five of this section.

5. Certain conduct of health professionals permitted. A health professional may engage in the following conduct so long as such conduct does not otherwise violate subdivision three or four of this section, does not adversely affect the physical or mental health or condition of an incarcerated individual or potential subject, and is not otherwise unlawful:

(a) appropriately participating or aiding in the investigation, prosecution, or defense of a criminal, administrative or civil matter, including presence during the interrogation of a minor at the request of the minor or the minor's parent or guardian and for the purpose of supporting the health of the minor;

(b) participating in an act that restrains an incarcerated individual or temporarily alters the physical or mental activity of an incarcerated individual, where the act complies with generally applicable legal, health and professional standards, is necessary for the protection of the physical or mental health, condition or safety of the incarcerated

individual, other incarcerated individuals, or persons caring for, guarding or confining the incarcerated individual;

(c) conducting bona fide human subject research in accordance with generally accepted legal, health and professional standards where the research includes safeguards for human subjects equivalent to those required by federal law, including informed consent and institutional review board approval where applicable;

(d) training related to the following purposes, so long as such training is not provided in support of specific ongoing or anticipated interrogations:

(i) recognizing and responding to persons with physical or mental illness or conditions,

(ii) the possible physical and mental effects of particular techniques and conditions of interrogation, or

(iii) the development of effective interrogation strategies not involving the practice of torture.

6. Duty to report. (a) Health professionals in a covered facility, or other individuals providing supervision or services to an incarcerated individual in a covered facility, shall report any instances of torture of incarcerated individuals, or other violations of this section or rules or regulations promulgated pursuant thereto, to an individual designated by the covered facility to receive such complaints and/or the office of the inspector general pursuant to this section.

(b) Individuals who have information about potential violations of this section shall be provided the opportunity to confidentially contact governmental and nongovernmental organizations which may provide assistance on how such individuals may file a complaint under this section.

7. Prohibition on retaliation. No officer, other employee of a covered facility or an employee or agent of another governmental or non-governmental organization who is working, operating, or volunteering in a covered facility shall carry out, or cause others to carry out, any form of retaliation against, or threats to, any incarcerated individual, staff of the covered facility or others working in, operating, or volunteering in the covered facility, or other persons, for reporting torture, or other violations of this section or rules or regulations promulgated pursuant thereto. For the purposes of this subdivision, "reporting" shall include: (a) any contact with any employee of a covered facility, or an employee or agent of any governmental, or non-governmental organization; or (b) communicating with but not limited to the media, lawmakers, the Correctional Association of New York, an attorney, an advocate, an investigative body or any other person or entity. This subdivision shall apply to any reporting of torture by a person including, but not limited to, providing information: about potential violations of this section; concerning how an incarcerated individual or other person may exercise their rights pursuant to this section; about the responsibilities of staff of the covered facility concerning the obligations of this section; or to, or in support of, another incarcerated individual, or other person not involved in a potential violation of this section, but who is considering assisting or has assisted an incarcerated individual who may have been tortured by or in the covered facility or concerned about violations of this section.

8. Reports of torture; confidentiality. All reports of torture or other violations of this section, or rules or regulations promulgated pursuant thereto, by any person to an employee or other person working, operating, or volunteering in a covered facility, or an employee or agent of another governmental or non-governmental organization shall be

considered confidential by the governmental or non-governmental organization unless the person whose identity would be disclosed agrees in writing to permit disclosure of such information. Such information shall not be revealed to any other person or organization except to the extent that is necessary to treat, investigate, or undertake security or management decisions to respond to an alleged action and ensure the safety, including protection against retaliation, of all persons providing such information.

9. Facility-based administrative investigation. When a report of alleged torture or other violation of this section, or rules or regulations promulgated pursuant thereto, is made to staff of a covered facility and the incarcerated individual has agreed that such information may be communicated to the covered facility, such information shall be confidentially communicated to the senior management officials of the covered facility, who shall be responsible for documenting the allegation and ensuring the safety, including protection against retaliation, of the person who has made an allegation of being tortured and any individual who has provided information about the alleged torture or other violation of this section, or rules or regulations promulgated pursuant thereto. The covered facility shall oversee a facility-based administrative investigation into the allegation and report such information to the agency responsible for the administration of the covered facility. Such investigation shall: be done promptly, thoroughly, and objectively of all allegations; require that investigators gather and preserve direct and circumstantial evidence; and require that investigators interview alleged victims, others involved in the incident, and witnesses, and document such interviews. The resulting outcome of the investigation shall be documented, including, but not limited to, a description of physical and testimonial evidence, reasoning behind credibility assessments, investigative facts and findings, and any action taken in response to the findings of the investigation. Reports of allegations of torture or other violations of this section, or rules or regulations promulgated pursuant thereto, shall promptly be provided to the office of the inspector general. The results of any investigations conducted by or on behalf of the administration of a covered facility pursuant to this section shall also be promptly provided to the office of the inspector general. The agency responsible for the covered facility shall publish reports on the agency's website with quarterly, semi-annual and annual cumulative reports of the number of incidents of alleged torture or other violation of this section or rules or regulations promulgated pursuant thereto, the month such incidents occurred, the facilities in which such incidents allegedly occurred, the type of torture or other violation of this section or rules or regulations promulgated pursuant thereto alleged, the findings of the investigation, and any disciplinary action taken in response to such investigation. The agency shall maintain the confidentiality of the reporters, incarcerated individuals, and witnesses in such published reports.

10. Obligations of the inspector general. The office of the inspector general, in receiving complaints and investigating compliance with this section and rules or regulations promulgated pursuant thereto and in its interaction with agencies of covered facilities, shall be obligated to:

(a) Provide a means for an incarcerated individual or a third party to report an allegation of torture or other violation of this section, or rules or regulations promulgated pursuant thereto, to the office of the inspector general. The incarcerated individual shall be provided a means to report such a complaint confidentially through the mail, telephone,

and their tablet or other electronic device providing access to outside sources. Staff or other individuals working or volunteering in a covered facility or an employee or agent of another governmental or non-governmental organization may also report an allegation of torture or other violation of this section, or rules or regulations promulgated pursuant thereto, to the office of the inspector general when: (i) the incarcerated individual has agreed that such information may be communicated to the office of the inspector general; and (ii) the reporting person is concerned about the safety of the incarcerated individual, staff or other individuals reporting torture or a violation of this section, or rules or regulations promulgated pursuant thereto, if such report was made to officials of the covered facility or another state agency. When an incarcerated individual does not provide consent to report an allegation of torture or other violation of this section, or rules or regulations promulgated pursuant thereto, the staff or other individuals working or volunteering in a covered facility or an employee or agent of another governmental or non-governmental organization who has received an allegation of torture or other violation of this section, or rules or regulations promulgated pursuant thereto, may report to the office of the inspector general information about such violation to the extent that such information cannot lead to the identification of the person who has provided the information about the alleged violation. Such report may include but need not be limited to: identifying the facility, but not the location, where the alleged violation occurred; the month, but not the date, of the alleged incident; and concerns about a pattern or practice of violations of the law or regulations, without specifying information about any particular incident. The office of the inspector general shall provide a means by which such information can be reported anonymously and by means of mail, telephone, and an online complaint form;

(b) Report any complaint they receive to the covered facility where such complaint allegedly occurred or where such incarcerated individual is detained or incarcerated unless the office of the inspector general determines that such reporting will result in unreasonable risk to the safety of the incarcerated individual or other persons involved in the reporting of a violation of this section, or rules or regulations promulgated pursuant thereto; and

(c) Publish reports on its website with quarterly, semi-annual and annual cumulative data on: the number of incidents of alleged torture or other violations of this section, or rules or regulations promulgated pursuant thereto; the month such incidents allegedly occurred; the facility in which such incidents allegedly occurred; the type of torture or other violation of this section, or rules or regulations promulgated pursuant thereto, alleged; and what action agencies have taken in response to such reports. The agency shall maintain the confidentiality of the reporters, incarcerated individuals and witnesses in such published reports.

11. Monitoring of covered facilities. The office of the inspector general shall monitor all covered facilities concerning their compliance with this section and any rules or regulations promulgated pursuant thereto. In exercising such authority, the office of the inspector general shall have direct and immediate access to: (a) all areas in the covered facilities where incarcerated individuals reside, where they participate in programs or other activities, or where they might temporarily be located; (b) review and promptly obtain copies of all clinical records, data, other records and information maintained by the covered

facility or other governmental or non-governmental agencies working, operating or volunteering in the covered facility or providing services to an incarcerated individual, relating to the office's obligation to monitor compliance with this section, including, but not limited to, assessment of any alleged complaints concerning any incarcerated individual and any other alleged violation of this section or rules or regulations promulgated pursuant thereto; and (c) interview and communicate confidentially with any incarcerated individual, any employee of a covered facility or an employee or agent of another governmental or non-governmental organization who is working, operating or volunteering in a covered facility. The office of the inspector general shall maintain the confidentiality of all patient-specific information obtained during the course of its monitoring activities.

12. Annual reports. The office of the inspector general shall submit at least annually a report to the governor and the legislature describing the state's progress in complying with this section. Such report shall be publicly available and shall include, but not be limited to: (a) data regarding the number of reports received by the office concerning alleged violations of this section by facility, results of investigations by the covered facilities of any complaints related to violation of this section, and types of corrective actions that were taken by the covered facilities in response to such investigations; and (b) the results of the office's review of patterns and trends in the reporting of and response to reportable incidents pursuant to this section, including the office's recommendations for appropriate preventive and corrective actions based upon its findings, and efforts undertaken by the covered facilities and other governmental or non-governmental persons working, operating or volunteering in the covered facility in response to the office's findings and recommendations. The covered facilities and other governmental and non-governmental agencies working or operating in a covered facility shall respond in writing to the office's reports, including, but not limited to, the office's findings and recommendations and what actions if any, the covered facility or other agency has undertaken or plans to undertake to address issues raised in the office's reports.

13. Employee training. All covered facilities shall ensure that the curriculum for new employees or other persons working, operating, or volunteering in a covered facility shall include at least three hours of training about the provisions of this section and any rules and regulations promulgated thereto, including, but not limited to, all methods of reporting complaints about torture of incarcerated individuals or other violations of this section or rules or regulations promulgated thereto, how to ensure confidentiality of medical encounters, requirements on preserving the confidentiality of persons reporting violations of this section or rules or regulations promulgated thereto, and the obligations of covered facilities to investigate, document and publicly report instances of alleged violations of this section and rules and regulations promulgated thereto. All employees and other persons working or operating in a covered facility shall receive two additional hours of training each year on the requirements of this section and any rules and regulations promulgated thereto similar to the training mandated for new employees.

14. Rules and regulations. All covered facilities and other governmental agencies that have staff working or operating in a covered facility shall promulgate rules and regulations pertaining to this section. Such rules and regulations shall include, but not be limited to: meas-

ures to ensure that health encounters are conducted in private and maintain confidentiality; prohibitions against torture of incarcerated individuals and the responsibility of every person in the facility to report any instance of such abuse; measures that have been implemented for persons to report violations of this section or any rules or regulations promulgated thereto both to the covered facility and/or the office of the inspector general; procedures for the covered facility to record, investigate, and respond to violations of this section or any rules or regulations promulgated thereto; and the prohibition of retaliation against any incarcerated individual, persons working, operation or volunteering in the covered facility, or other persons who report any violation of this section or any rules or regulations promulgated thereto. Covered facilities shall also provide information orally and in writing to all incarcerated individuals about the requirements of this section and any rules or regulations promulgated thereto, including, but not limited to: the means by which incarcerated individuals can report violations of this section or any rules or regulations promulgated thereto; the obligation of staff and others to report any alleged violations of this section or any rules or regulations promulgated thereto; the requirement to maintain confidentiality of any reports; and the duties of the office of the inspector general to receive such reporting and to monitor compliance with this section and any rules or regulations promulgated thereto.

15. Mitigation. The following may be considered in full or partial mitigation of a violation of this section or any rules or regulations promulgated thereto by the health professional:

(a) compliance with subdivision six of this section; or

(b) cooperation in good faith with an investigation of a violation of this section or any rules or regulations promulgated thereto.

16. Scope of practice not expanded. This section shall not be construed to expand the lawful scope of practice of any health professional.

§ 4. Section 6509 of the education law is amended by adding a new subdivision 15 to read as follows:

(15) Any violation of section twenty-five of the public health law (relating to participation in torture of incarcerated individuals by health professionals), subject to mitigation under that section.

§ 5. Section 6530 of the education law is amended by adding a new subdivision 51 to read as follows:

51. Any violation of section twenty-five of the public health law (relating to participation in torture of incarcerated individuals by health professionals), subject to mitigation under that section.

§ 6. Paragraphs (b) and (c) of subdivision 2 of section 740 of the labor law, as amended by chapter 522 of the laws of 2021, are amended and a new paragraph (d) is added to read as follows:

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; [~~or~~]

(c) objects to, or refuses to participate in any such activity, policy or practice[~~.~~]; or

(d) reports or threatens to report any violation of section twenty-five of the public health law (relating to participation in torture of incarcerated individuals by health professionals).

§ 7. Subdivision 3 of section 740 of the labor law, as amended by chapter 522 of the laws of 2021, is amended to read as follows:

3. Application. The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify [~~his or her~~] **their** employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; [~~or~~] (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice**; or (f) such activity, policy, or practice constitutes a violation under section twenty-five of the public health law (participation in torture of incarcerated individuals by health professionals)**.

§ 8. Paragraphs (a) and (b) of subdivision 2 of section 741 of the labor law, as amended by chapter 117 of the laws of 2020, are amended and a new paragraph (c) is added to read as follows:

(a) discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; [~~or~~]

(b) objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety[~~.~~]**; or**

(c) reports or threatens to report any violation of section twenty-five of the public health law (participation in torture of incarcerated individuals by health professionals).

§ 9. Subdivision 3 of section 741 of the labor law, as amended by chapter 117 of the laws of 2020, is amended to read as follows:

3. Application. The protection against retaliatory personnel action provided by subdivision two of this section shall not apply unless the employee has brought the improper quality of patient care or improper quality of workplace safety to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice. This subdivision shall not apply to an action or failure to act described in paragraph (a) of subdivision two of this section where the improper quality of patient care or improper quality of workplace safety described therein presents an imminent threat to public health or safety or to the health of a specific patient or specific health [~~care~~] employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action**; or to any report of a violation under section twenty-five of the public health law (participation in torture of incarcerated individuals by health professionals)**.

§ 10. The introduction or enactment of this act shall not be construed to mean that: (a) conduct described by this act does not already violate

state law or constitute professional misconduct; or (b) conduct other than that described by this act does not violate other state law or otherwise constitute professional misconduct.

§ 11. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act or any other application of any provision of this act.

§ 12. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.